IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 982 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

and

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMANLAL GHELABHAI DESAI

Versus

SPL LAND ACQUISITION OFFICER

Appearance:

1. First Appeal No. 982 of 1985

MR SH SANJANWALA for Petitioner No. 1

MR SP SEN AGP for Respondents No. 1-2

CORAM : MR.JUSTICE B.J.SHETHNA

and

MR.JUSTICE N.G.NANDI

Date of decision: 10/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

#. The appellant-original claimant has filed this appeal under Section 54 of the Land Acquisition Act challenging the impugned judgment and order dated 21.12.1984 passed by the learned Assistant Judge, Valsad at Navsari dismissing the Land Reference No.7 of 1981.

#. At the outset, we must state that learned counsel Mr.Sanjanwala for the appellant requested to adjourn this matter for some time so as to enable him to keep his client present in the court at the time of hearing of this appeal. But the said request was turned down by us for two reasons; (1) that this appeal is of 1985, which is pending before this court since last 16 years and (2) that ordinarily this court does not wait for the client, when he is duly represented by his lawyer.

#. Thereafter, we must state that learned counsel Mr.Sanjanwala with his usual vehemence challenged impugned order passed by the learned Judge. He vehemently submitted that the learned Judge was wholly in error in not relying upon the sale deed of another land where Darpan Society was constructed. He submitted that there was hardly a distance of 1 k.m. between the land of the appellant, which was acquired and the land where Darpan Society was constructed. Under the circumstances, he, therefore, submitted that the learned Judge ought to have relied upon that sale instance. We have carefully gone through the evidence on record of this case as well as the reasoning assigned by the learned Judge for dismissing the land reference case. It is true that there is a distance of 1 k.m. between the land of the appellant-claimant and Darpan Society but the appellant himself had admitted in his cross-examination that when Darpan Society land was purchased, the road was already in existence to reach that land and that land was nearer to the railway station and it was in a thickly populated area. The said society is consisting of 28 bungalows with the open land left out for the purpose of internal roads. Whereas, the land of the appellant, which was acquired, was at a distance of 1 k.m. away from the land of Darpan Society having three sides open or orchard land and on one side there was a construction of State Transport office and workshop. Except that there was no development. It has also come on evidence that the land

of Darpan Society was already non-agricultural land when it was acquired, whereas, the land of the appellant was jirayat land. Thus, merely because the land of Darpan Society which was acquired at a higher rate could not have been relied upon by the learned Judge and in our considered opinion the learned Judge has rightly not relied upon the two sale instances at Ex.44 and 45 of Darpan Society.

#. One more important aspect of the case is that the sale transaction of Darpan Society land was of 1973, whereas, the land of the appellant was acquired in 1979.

#. In view of the above discussion, we are unable to accept the submissions raised by Mr.Sanjanwala for the appellant.

In view of the above discussion, we do not find any substance or merits in this appeal and accordingly it fails and is hereby dismissed. However, there shall be no order as to costs.

(B.J.Shethna, J.)

(N.G.Nandi, J.)

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